

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BENJAMIN VANFOSSAN,
Plaintiff,
v.
ARNEL DELOS SANTOS, et al.,
Defendants.

Case No. 1:20-cv-00173-DAD-EPG (PC)

ORDER REQUIRING PARTIES TO EXCHANGE DOCUMENTS

Benjamin VanFossan (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983.

On February 9, 2021, the Court issued an order requiring the parties to file scheduling conference statements and exchange initial disclosures. (ECF No. 28). While the Court later vacated the scheduling conference, it retained the requirement for the parties to file scheduling conference statements and exchange initial disclosures. (ECF No. 30). The parties have now filed their scheduling conference statements. (ECF Nos. 36 & 39).

Defendants state that they provided their initial disclosures. (ECF No. 39, p. 9). However, Defendants state that they have not received any initial disclosures from Plaintiff. (*Id.*).

The Court has reviewed this case and the parties' statements. In an effort to secure the just, speedy, and inexpensive disposition of this action,¹ the Court will direct that certain

¹ See, e.g., *United States v. W.R. Grace*, 526 F.3d 499, 508–09 (9th Cir. 2008) (“We begin with the principle that the district court is charged with effectuating the speedy and orderly administration of justice. There

1 documents that are central to the dispute be promptly produced.²

2 Accordingly, IT IS ORDERED that:

- 3 1. Each party has sixty days from the date of service of this order to serve opposing
4 parties, or their counsel, if represented, with copies of the following documents
5 and/or evidence that they have in their possession, custody, or control, to the
6 extent the parties have not already done so:³
 - 7 a. Documents regarding exhaustion of Plaintiff's claims, including 602s,
8 Form 22s, and responses from the appeals office.
 - 9 b. All documents regarding the Rules Violation Report associated with the
10 incident(s) alleged in the complaint, including disciplinary charges and
11 findings.
 - 12 c. Witness statements and evidence that were generated from
13 investigation(s) related to the event(s) at issue in the complaint.
- 14 2. If any party obtains documents and/or other evidence described above later in
15 the case from a third party, that party shall provide all other parties with copies
16 of the documents and/or evidence within thirty days.
- 17 3. Parties do not need to produce documents or evidence that they have already
18 produced.
- 19 4. Parties do not need to produce documents or evidence that were provided to
20 them by the opposing party.
- 21 5. Parties may object to producing any of the above-listed documents and/or
22 evidence. Objections shall be filed with the Court and served on all other parties

24 is universal acceptance in the federal courts that, in carrying out this mandate, a district court has the authority to
25 enter pretrial case management and discovery orders designed to ensure that the relevant issues to be tried are
26 identified, that the parties have an opportunity to engage in appropriate discovery and that the parties are
27 adequately and timely prepared so that the trial can proceed efficiently and intelligibly.”).

28 ² Advisory Committee Notes to 1993 Amendment to Federal Rules of Civil Procedure regarding Rule
26(a) (“The enumeration in Rule 26(a) of items to be disclosed does not prevent a court from requiring by order or
local rule that the parties disclose additional information without a discovery request.”).

³ Defense counsel is requested to obtain these documents from Plaintiff's institution(s) of confinement. If
defense counsel is unable to do so, defense counsel should inform Plaintiff that a third party subpoena is required.

1 within sixty days from the date of service of this order (or within thirty days of
2 receiving additional documents and/or evidence). The objection should include
3 the basis for not providing the documents and/or evidence. If Defendant(s)
4 object based on the official information privilege, Defendant(s) shall follow the
5 procedures described in the Court's scheduling order. If a party files an
6 objection, all other parties have fourteen days from the date the objection is filed
7 to file a response. If any party files a response to an objection, the Court will
8 issue a ruling on the objection.

9 Additionally, IT IS ORDERED that Plaintiff has thirty days from the date of service of
10 this order to serve Defendants' counsel with his initial disclosures. As discussed in the Court's
11 prior order (ECF No. 28), Plaintiff shall provide Defendants' counsel with “[t]he name and, if
12 known, the address and telephone number of each individual likely to have discoverable
13 information—along with the subjects of that information—that [Plaintiff] may use to support
14 [his] claims or defenses, unless the use would be solely for impeachment.” (*Id.* at 3). Plaintiff
15 shall also provide Defendants' counsel with a “copy—or a description by category and
16 location—of all documents, electronically stored information, and tangible things that [Plaintiff]
17 has in [his] possession, custody, or control and may use to support [his] claims or defenses,
18 unless the use would be solely for impeachment.” (*Id.*).

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20 IT IS SO ORDERED.

21 Dated: June 1, 2021

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23 /s/ *Evan P. Gross*
24 UNITED STATES MAGISTRATE JUDGE
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